

AMENDED IN SENATE MARCH 29, 2007

SENATE BILL

No. 27

Introduced by Senator Simitian ~~Senators Simitian, Machado, Perata, and Steinberg~~

December 4, 2006

An act to add Division 26.6 (commencing with Section 79600) to the Water Code, relating to financing a water conveyance and environmental improvement program, by providing the funds necessary therefor through the issuance and sale of bonds of the State of California and by providing for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately. *the Water Code, relating to the Sacramento-San Joaquin Delta.*

LEGISLATIVE COUNSEL'S DIGEST

SB 27, as amended, Simitian. ~~Clean Drinking Water, Water Supply Security, and Environmental Improvement Bond Act of 2007. Sacramento-San Joaquin River Delta, Clean Drinking Water, Water Supply Security, and Environmental Improvement Act of 2008.~~

~~Under existing law, various bond acts have been approved by the voters to provide funds for water projects, facilities, and programs.~~

~~This bill would enact the Clean Drinking Water, Water Supply Security, and Environmental Improvement Bond Act of 2007 which, if approved by the voters would authorize, for purposes of financing a water conveyance and environmental improvement program, the issuance, pursuant to the State General Obligation Bond Law, of bonds in the amount of \$5,000,000,000. The bill would require the Secretary of State to submit the bond act to the voters at the _____, statewide election.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Under existing law, various state agencies administer programs relating to water supply, water quality, and flood management in the Sacramento-San Joaquin Delta.

This bill would require the Secretary of the Resources Agency, on or before January 1, 2008, to begin implementing certain actions on behalf of the Sacramento-San Joaquin River Delta, including investing in emergency preparedness, funding projects to aid sustainability in the Delta, identifying critical levels to be strengthened, and commencing Delta restoration projects. The secretary would be required to take necessary action to ensure that the requirements of a specified Governor's executive order relating to the Delta are met in a timely manner. The bill would declare legislative intent to enact legislation to begin implementing a program for sustainable management of the Delta in 2008. The bill would make related declarations and findings.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Division 26.6 (commencing with Section 79600)
2 is added to the Water Code, to read:

3
4 DIVISION 26.6. SACRAMENTO-SAN JOAQUIN RIVER
5 DELTA, CLEAN DRINKING WATER, WATER SUPPLY
6 SECURITY, AND ENVIRONMENTAL IMPROVEMENT ACT OF
7 2008

8
9 79600. This division shall be known, and may be cited, as the
10 Sacramento-San Joaquin River Delta, Clean Drinking Water,
11 Water Supply Security, and Environmental Improvement Act of
12 2008.

13 79601. The Legislature finds and declares all of the following:
14 (a) The Sacramento-San Joaquin River Delta is a web of
15 channels and reclaimed islands at the confluence of the Sacramento
16 and San Joaquin Rivers. It forms the eastern portion of the wider
17 San Francisco Estuary, which includes the San Francisco, San
18 Pablo, and Suisun Bays. The Delta collects water from California's
19 largest watershed, which encompasses roughly 45 percent of the

1 *state's surface area and stretches from the eastern slopes of the*
2 *Coastal Ranges to the western slopes of the Sierra Nevada.*

3 *(b) The Delta supports a unique and irreplaceable combination*
4 *of environmental and economic values, including all of the*
5 *following:*

6 *(1) A unique ecosystem. The Delta and the adjacent Suisun*
7 *Marsh, an integral part of the Delta ecosystem, provide habitat*
8 *for 700 species, including 12 species listed under either the*
9 *California or federal endangered species acts. Eighty percent of*
10 *the state's commercial fishery species live in or migrate through*
11 *the Delta. It is a major stopping point for hundreds of thousands*
12 *of migrating birds along the Pacific Flyway. The Suisun Marsh*
13 *alone contains more than 10 percent of California's remaining*
14 *wetlands.*

15 *(2) Water supply. Two-thirds of the state's population relies on*
16 *the Delta for part or all of their drinking water. Water exported*
17 *from the Delta irrigates 45 percent of the fruits and vegetables*
18 *produced in the United States.*

19 *(3) Agricultural and other land uses. Delta lands have*
20 *contributed significantly to the agricultural economy in California.*
21 *Supporting a population of about 470,000, the cities, towns, and*
22 *settlements within the Delta are of significant historical, cultural,*
23 *and economic value.*

24 *(4) Major transportation corridors. The Delta is crossed by*
25 *three state highways, three rail lines, and two deepwater channels*
26 *and is home to two inland ports. Most of these transportation*
27 *corridors serve other areas of the state.*

28 *(5) Utility corridors. The Delta is crossed by hundreds of gas*
29 *lines, five high voltage lines, and a pipeline that provides drinking*
30 *water to residents in east San Francisco Bay. The Delta is also*
31 *home to numerous underground natural gas storage sites.*

32 *(6) Recreation. The Delta's 635 miles of boating waterways are*
33 *served by 95 marinas containing 11,700 inwater boat slips and*
34 *dry storage for 5,500 boats. In 2000, there were an estimated 6.4*
35 *million boating-related visitor-days, with 2.13 million boating*
36 *trips. Other major recreational activities in the Delta include*
37 *fishing, waterfowl, and upland game bird hunting, wildlife viewing,*
38 *bird watching, and windsurfing.*

39 *(7) Flood management. The Delta is the natural drain to a*
40 *42,500 square mile watershed that includes the Central Valley*

1 *and the western slope of the Sierra Nevada from Fresno to Mount*
2 *Shasta. As such, it is the main conduit for floodwaters to flow out*
3 *to the ocean. The Delta itself is protected by extensive, but fragile,*
4 *flood management facilities, including about 1,100 miles of levees*
5 *in the Delta and about 230 miles of levees in the Suisun Marsh.*
6 *These levees protect about 65 islands and tracts in the Delta. Most*
7 *of these levee-protected lands are below sea level, some areas are*
8 *as much as 25 feet below sea level.*

9 *(c) The Delta cannot sustain these environmental and economic*
10 *values under current conditions. All of these values either are*
11 *already in significant decline or are at risk of sudden failure.*
12 *Several factors are intensifying the problems, including all of the*
13 *following:*

14 *(1) Land subsidence, sea level rise, and changes in climate make*
15 *Delta levees increasingly vulnerable to failure from earthquakes,*
16 *floods, and other causes. Over the next 50 years, there is a*
17 *two-thirds chance of a catastrophic levee failure in the Delta,*
18 *leading to multiple island floodings and the intrusion of seawater.*
19 *For one such scenario, the Department of Water Resources*
20 *estimates that a large earthquake near the Delta would cause*
21 *major interruptions in water supplies for Southern California, the*
22 *San Joaquin Valley, and the San Francisco Bay area, as well as*
23 *disruptions of power, road, and shipping lines, costing the state's*
24 *economy as much as \$40 billion. These failures also would create*
25 *major environmental disruptions and local flooding risks.*

26 *(2) Endangered species and fisheries have continued to decline*
27 *in the Delta and disruptive nonnative species continue to invade.*
28 *In the fall of 2004, routine fish surveys registered sharp declines*
29 *in the numbers of several open-water (pelagic) species, including*
30 *the delta smelt, already listed as threatened under the federal and*
31 *state endangered species acts. Subsequent surveys have confirmed*
32 *the trend, raising concerns that the smelt, which are sometimes*
33 *seen as an indicator of ecosystem health in the Delta, risks*
34 *extinction if a solution is not found quickly.*

35 *(3) Delta water quality remains at risk from salts entering from*
36 *the ocean and the San Joaquin Valley's agricultural drainage, as*
37 *well as from pesticides and metals coming from agricultural and*
38 *urban lands. Chronic toxicants continue to be a problem, and*
39 *episodic toxic events from urban and agricultural applications are*
40 *also a major problem.*

(4) *Regional population and economic growth has increased pressure to urbanize Delta lands near major transportation routes and urban centers. This “hardening” of Delta lands simultaneously raises the costs of flood risks and reduces the flexibility of land management options. Unlike most other activities in the Delta, urbanization is generally irreversible. Additionally, urbanization is self-accelerating. Urbanization in one location significantly increases the value of adjacent lands. This, coupled with declining profit margins for farming, will increase the pressure to convert farmlands to subdivisions. This shift will come at the expense of habitat protection and other services, such as water quality and water supply, that are important for other parts of California.*

(d) *Failing to address any of these issues would have severe environmental and economic consequences. Failing to address all of these issues would be inviting a catastrophe.*

79602. *The Legislature further finds and declares all the following:*

(a) *The Legislature has increasingly called for actions to resolve the conflicts in the Sacramento-San Joaquin Delta. During its 2005–06 Regular Session, the Legislature passed and the Governor signed Assembly Bill 1200 (Laird), Senate Bill 1574 (Kuehl), and Assembly Bill 1803 (Committee on Budget). Together, these bills require an assessment of the potential impacts on water supplies of catastrophic failures in the delta, identification and evaluation of options to protect water supplies and the ecosystem of the delta, the development of a vision for a sustainable delta, and a strategic plan to achieve a sustainable Sacramento-San Joaquin Delta.*

(b) *The Public Policy Institute of California has made significant progress in addressing many of the issues raised by that legislation. In February 2007, the institute released a document entitled “Envisioning Futures for the Sacramento-San Joaquin Delta.” This report did a highly credible job of describing the various challenges facing the Delta and identified nine potential approaches to resolving those challenges. The authors found that four of the nine options were not promising and should not be considered further. The five remaining options included two versions of an isolated conveyance system, two options with reduced exports, and one option featuring an armored, but not isolated, conveyance system. The authors further suggested that the creation of a hybrid solution, relying on some combination of*

1 *key elements, may provide the most promising path forward. The*
2 *University of California’s Department of Landscape Architecture*
3 *and Environmental Planning similarly made important*
4 *contributions to developing a long-term sustainable Delta in its*
5 *March 2007 report entitled “ReEnvisioning the Delta: Alternative*
6 *Futures for the Heart of California.”*

7 *(c) The recent work by the Public Policy Institute of California*
8 *and the University of California’s Department of Landscape*
9 *Architecture and Environmental Planning demonstrates that there*
10 *already is a significant body of knowledge regarding the challenges*
11 *to the Delta and potential options for resolving those challenges.*
12 *Accordingly, the Legislature expects, consistent with the*
13 *Governor’s Executive Order S-17-06, that by January 1, 2008, the*
14 *Blue Ribbon Task Force will present a report to the Delta Vision*
15 *Committee and Governor that does all of the following:*

16 *(1) Meets the requirements of Assembly Bill 1200 and Senate*
17 *Bill 1574.*

18 *(2) Assesses the risks and consequences to the Delta’s many*
19 *uses and resources in light of changing climatic, hydrologic,*
20 *environmental, seismic, and land use conditions. This assessment*
21 *is expected to address all of the following:*

22 *(A) The environment, including aquatic and terrestrial functions*
23 *and biodiversity.*

24 *(B) Land use and land use patterns, including agriculture,*
25 *urbanization, and housing.*

26 *(C) Transportation, including streets, roads, highways,*
27 *waterways, and ship channels.*

28 *(D) Utilities, including aqueducts, pipelines, and gas and*
29 *electric transmission corridors.*

30 *(E) Water supply and quality, municipal and industrial*
31 *discharges, and urban and agricultural runoff.*

32 *(F) Recreation and tourism, including boating, fishing, and*
33 *hunting.*

34 *(G) Flood risk management, including levee maintenance.*

35 *(H) Emergency response.*

36 *(I) Local and state economies.*

37 *(3) Develops a program for sustainable management of the*
38 *Delta’s multiple uses, resources, and ecosystem. Sustainable*
39 *management of the Delta means managing the Delta over the long*
40 *term to restore and maintain identified functions and values that*

1 *are determined to be important to the environmental quality of the*
2 *Delta and the economic and social well being of the people of the*
3 *state. As part of the Delta Vision process, priority functions and*
4 *values are expected to be identified, and measures necessary to*
5 *provide long-term protection and management are expected to be*
6 *evaluated.*

7 *(d) The Legislature further expects that the Blue Ribbon Task*
8 *Force will focus most of its attention on exploring and evaluating*
9 *the five options that the Public Policy Institute of California found*
10 *most promising; two versions of an isolated conveyance system,*
11 *two options with reduced exports, and one option featuring an*
12 *armored, but not isolated, conveyance system. It is the expectation*
13 *of the Legislature that the Blue Ribbon Task Force will report to*
14 *the Delta Vision Committee and Governor which of the five options,*
15 *or hybrid of options, the task force believes best meets the*
16 *requirements of existing law and the Governor's Executive Order*
17 *S-17-06.*

18 *(e) The Legislature further finds and declares that while the*
19 *Delta Vision process established under last session's Senate Bill*
20 *1574 holds great promise, the Legislature cannot sit idly by while*
21 *the risks to the Delta continue to mount. As both the Public Policy*
22 *Institute of California and the University of California's*
23 *Department of Landscape Architecture and Environmental*
24 *Planning conclude, there are a number of actions that should begin*
25 *immediately. These include the following:*

26 *(1) Investing in essential emergency preparedness, such as*
27 *stockpiling emergency repair materials in the Delta and*
28 *constructing one or more cutoff levees to allow isolation of the*
29 *south Delta from brackish water following a catastrophic flooding*
30 *event in the Delta.*

31 *(2) Funding projects that would aid sustainability regardless*
32 *of the ultimate plan to achieve a sustainable Delta, such as using*
33 *bond funds to set aside or purchase key habitat areas and investing*
34 *in demonstration projects such as the Franks Tract pilot project*
35 *or new fish screens at Clifton Court.*

36 *(3) Identifying critical levees that must be strengthened*
37 *immediately to protect the beneficial uses and resources of the*
38 *Delta, as well as those levees that the state would not repair should*
39 *they fail.*

1 (4) Commencing restoration projects to improve habitat
2 conditions for the Delta smelt and other pelagic fish species, such
3 as restoration actions in the Suisun Marsh and Cache Slough
4 regions.

5 79603. It is the intent of the Legislature to enact legislation to
6 begin implementing a program for sustainable management of the
7 Delta in 2008. It is the desire of the Legislature that this legislation
8 be based on the results of the Blue Ribbon Task Force's report
9 that is to be submitted to the Delta Vision Committee and the
10 Governor by January 1, 2008. However, should that report fall
11 short of expectations, the Legislature intends to move in all due
12 haste to develop its own program for sustainable management of
13 the Delta.

14 79604. (a) It is the intent of the Legislature that the
15 implementation of this division accomplish all of the following:

16 (1) Provide significant improvements to the quality of the
17 drinking water derived from the Delta and used as a part of the
18 drinking water supply of 23 million Californians.

19 (2) Ensure that urban and agricultural water supplies derived
20 from the Delta, including water supplies used within the Delta,
21 are not disrupted because of catastrophic failures of delta levees
22 resulting from earthquakes, floods, land sinking, rising ocean
23 levels, or other forces.

24 (3) Provide a safe, clean, high quality, secure, affordable, and
25 sufficient water supply to meet the needs of California's
26 environment, residents, farms, and businesses.

27 (4) Improve and increase aquatic and terrestrial habitats and
28 improve ecological functions in the San Francisco Bay-Delta
29 watersheds to support sustainable populations of plant, fish, and
30 animal species.

31 (5) Improve water quality and reduce pollution within the
32 watersheds of the Bay-Delta.

33 (6) Reduce the reliance of water users on the Delta through
34 conservation, reclamation, reuse, and other means.

35 (7) Create sustainable land use patterns.

36 (8) Create sustainable flood structures.

37 (9) Protect and enhance recreation and tourism opportunities.

38 (10) Maintain and improve transportation within and around
39 the Delta.

1 (11) Accommodate the transmission of utilities either in or
2 around the Delta.

3 (12) Develop and implement an appropriate emergency response
4 plan.

5 (13) Protect and enhance the local economy.

6 (b) Programs funded by this division shall maximize where
7 feasible scientifically based procedures to reduce global warming
8 gases emitted by exposed Delta soils.

9 79605. (a) The Secretary of the Resources Agency shall take
10 necessary action to ensure the requirements of the Governor's
11 Executive Order S-17-06 are met in a timely manner.

12 (b) On or before January 1, 2008, the Secretary of the Resources
13 Agency shall develop and begin implementing the following actions
14 on behalf of the Sacramento-San Joaquin River Delta.

15 (1) Investing in essential emergency preparedness, such as
16 stockpiling emergency repair materials in the Delta and
17 constructing one or more cutoff levees to allow isolation of the
18 south Delta from brackish water following a catastrophic flooding
19 event in the Delta.

20 (2) Funding projects that would aid sustainability regardless
21 of the ultimate plan to achieve a sustainable Delta, such as using
22 bond funds to set aside or purchase key habitat areas and investing
23 in demonstration projects such as the Franks Tract pilot project
24 or new fish screens at Clifton Court.

25 (3) Identifying critical levees that must be strengthened
26 immediately to protect the beneficial uses and resources of the
27 Delta as well as those levees that the state would not repair should
28 they fail.

29 (4) Commencing restoration projects to improve habitat
30 conditions for the Delta smelt and other pelagic fish species, such
31 as restoration actions in the Suisun Marsh and Cache Slough
32 regions.

33 (c) Nothing in this section grants any new authority to the
34 secretary or authorizes the use of funds not otherwise appropriated
35 by the Legislature for the express purposes of this section.

36 79606. The Legislature finds and declares that, in developing
37 a model for water movement that is consistent with the five options
38 described in subdivision (b) of Section 79602, a successful system
39 must be designed to accomplish the following:

1 (a) Optimize opportunities to manage the Delta as a fluctuating
2 tidal estuary within and between water years to mimic historic
3 salinity patterns throughout the Bay-Delta ecosystem.

4 (b) Optimize opportunities for recovery and restoration of native
5 aquatic and terrestrial species utilizing best available technologies
6 for minimizing entrainment of native fish during water export.

7 (c) Significantly reduce quantities of salts, halides, dissolved
8 solids, pollutants, organic chemicals, and carcinogenic precursors
9 in water exported from the Delta for municipal, agricultural, and
10 industrial uses.

11 (d) Use the best available science and technology to restore
12 populations of native fisheries in the Sacramento, San Joaquin,
13 Mokelumne, and Cosumnes River systems.

14 (e) Optimize the operation of the Delta to diminish, or if
15 possible, eliminate undesirable invasive nonnative aquatic plants,
16 fish, and invertebrates.

17 (f) Optimize opportunities for existing in-Delta users to receive
18 water pursuant to their water rights.

19 (g) Allow for export of water at times and in ways that have the
20 least impact on native fish populations, water supply, and water
21 quality.

22 (h) Provide for the greatest possible protection of existing water
23 transmission and export facilities and transportation facilities
24 within the Delta.

25 (i) Maximize the opportunity to preserve existing Delta islands
26 for purposes of preservation and restoration of native fish and
27 wildlife, and agricultural production consistent with that
28 preservation and restoration.

29 79607. (a) The legislation described in Section 79603 shall
30 include a funding mechanism consistent with the option selected
31 pursuant to subdivision (b) of Section 79602.

32 (b) The legislation described in Section 79603 shall include a
33 management and governance structure consistent with the
34 principles set forth by the Public Policy Institute of California.

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**All matter omitted in this version of the bill
appears in the bill as introduced in the
Senate, December 4, 2006 (JR11)**

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